

## Message Text

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71

ORIGIN L-03

INFO OCT-01 ARA-06 ISO-00 CIAE-00 DODE-00 PM-04 H-02

INR-07 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 EB-07

COME-00 TRSE-00 OMB-01 OPIC-03 XMB-02 AID-05 IGA-02

OES-06 INT-05 NSCE-00 SSO-00 USIE-00 INRE-00 /078 R

DRAFTED BY L/EUR:DAGANTZ

APPROVED BY ARA:HSHLAUDEMAM

S/P:LEINAUDI (DRAFT)

T:CEMAW (SUB)

S/S:-O RMPERITO

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O 280030Z SEP 76

FM SECSTATE WASHDC

TO AMEMBASSY LIMA IMMEDIATE

C O N F I D E N T I A L STATE 240343

FOR CLINT SMITH

E.O. 11652: GDS

TAGS: BDIS, EIND, EINV, EMIN, PFOR, PE

SUBJECT: MARCONA - FINAL STEPS

REF: GANTZ-SMITH CONVERSATIONS, SEPTEMBER 23

1. STEPS WHICH REMAIN BEFORE AGREEMENT GOES INTO EFFECT ARE AS FOLLOWS: GOP APPROVAL OF AGREEMENT BY DECREE LAW, ISSUANCE OF PROMISSORY NOTE BY BANCO DE LA NACION (ACCOMPANIED BY LETTER TO BANCO CENTRAL TO BANCO DE LA NACION INDICATING THAT FOREIGN EXCHANGE WILL BE AVAILABLE), EXECUTION OF ORE CONTRACT IN PANAMA, AND THE EXCHANGE OF NOTES ON \$34 MILLION REMITTANCE MATTER.

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2. WITH RESPECT TO DECREE LAW, FOREIGN MINISTRY SHOULD

BE ASKED TO PROVIDE US WITH A COPY OF THE LAW APPROVING THE AGREEMENT BY DIPLOMATIC NOTE, SO AS TO AVOID ANY CONFUSION OVER EFFECTIVE DATE.

3. YOU SHOULD BE GIVEN ORIGINAL AND COPY OF SIGNED NOTE AS WELL AS COPIES OF LETTER AUTHORIZING FOREIGN EXCHANGE; ORIGINAL OF NOTE WILL BE POUCHED TO US FOR TRANSMITTAL TO BRADFELD.

4. MARCONA AND MINPECO REPS (PROBABLY BILHORN AND PRICE) ARE EXPECTED TO SIGN ORE CONTRACT IN PANAMA ON SEPTEMBER 30. WE ASSUME THAT WITH PRIOR ENACTMENT OF DECREE LAW ORE SALES CONTRACT WILL BECOME EFFECTIVE UPON SIGNATURE. HOWEVER WE WOULD APPRECIATE YOUR CONFIRMING THIS WITH FOREIGN MINISTRY. (BRADFELD IS LOOKING INTO THIS LEGAL QUESTION AS WELL AS INTO WHAT SPECIAL PROCEDURES IF ANY MAY BE REQUIRED AS A RESULT OF FACT CONTRACT IS BEING SIGNED IN PANAMA.)

5. ONCE DECREE LAW IS ENACTED, YOU SHOULD RECEIVE NOTE FROM DE LA PUENTE ALONG FOLLOWING LINES (TRANSLATION):

QUOTE

MR. AMBASSADOR:

I HAVE THE HONOR TO ADDRESS MYSELF TO YOUR EXCELLENCY WITH REGARD TO THE AGREEMENT SUBSCRIBED TO SEPTEMBER 22 BY THE GOVERNMENTS OF PERU AND THE UNITED STATES OF AMERICA TO RESOLVE QUESTIONS RESULTING FROM THE NATIONALIZATION OF THE MARCONA MINING CORPORATION. AS YOUR EXCELLENCY IS AWARE THE REFERENCED FIRM FAILED TO SURRENDER A TOTAL OF U.S. \$34,305,322.25 (THIRTY-FOUR MILLION THREE HUNDRED FIVE THOUSAND THREE HUNDRED TWENTY-TWO U.S. DOLLARS AND TWENTY-FIVE CENTS) FOR EXPLOITATION AND FINAL LIQUIDATION, IN ACCORDANCE WITH DECREE LAW 17710, THIS BEING THE EQUIVALENT VALUE IN NATIONAL CURRENCY OF THE TOTAL PATRIMONY OF THE REFERENCED FIRM THAT IS REMITTABLE IN CONFORMITY WITH PERUVIAN LAW.

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SO AS TO AVOID UNDERTAKING UNNECESSARY BANKING OPERATIONS, MY GOVERNMENT PROPOSES TO AUTHORIZE THE BANCO CENTRAL DE RESERVA TO CANCEL THE RESPECTIVE REGISTRIES, WITHOUT GAIN FOR ANY OF THE PARTIES, SO THAT THIS QUESTION ALSO WOULD BE FULLY RESOLVED.

I TAKE THIS OPPORTUNITY TO REITERATE TO YOU, MR. AMBASSADOR, THE ASSURANCE OF MY HIGHEST AND ATTENTIVE

CONSIDERATION, . . .

DE LA PUENTE END QUOTE

YOU SHOULD RESPOND WITH TEXT GIVEN PARA 6 BELOW. (AS THIS TEXT IS SLIGHTLY DIFFERENT FROM VERSION GANTZ SHOWED ANTONIO BELAUNDE ON SEPTEMBER 22, YOU SHOULD SHOW IT TO FONMIN ASAP.)

6. US NOTE:

QUOTE

I HAVE THE HONOR TO REFER TO YOUR NOTE OF THIS DATE RELATING TO CERTAIN FUNDS OF THE MARCONA MINING COMPANY. IN THIS REGARD, THE GOVERNMENT OF THE UNITED STATES WISHES TO INDICATE THAT IT HAS NO DIRECT KNOWLEDGE OF THE CIRCUMSTANCES TO WHICH YOU REFER, BUT REGARDLESS OF THE NATURE OF THE MATTER, I AM PLEASED THAT THE GOP HAS BEEN ABLE TO RESOLVE IT IN CONFORMITY WITH ITS OWN LAWS AND PROCEDURES AND IN A MANNER THAT IS CONSISTENT WITH THE LETTER AND SPIRIT OF THE AGREEMENT SUBSCRIBED TO SEPTEMBER 22, 1976, BY THE GOVERNMENTS OF THE UNITED STATES OF AMERICA AND PERU TO RESOLVE QUESTIONS RESULTING FROM THE NATIONALIZATION OF THE MARCONA MINING COMPANY. I ALSO WISH TO OBSERVE THAT THE TREATMENT PROVIDED FOR IN THE SECOND PARAGRAPH OF YOUR NOTE DOES NOT MODIFY OR OTHERWISE AFFECT THE PROVISIONS OF THIS AGREEMENT.

(COMPLIMENTARY CLOSE.)

END QUOTE. KISSINGER

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## Message Attributes

**Automatic Decaptioning:** X  
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**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
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